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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

In re A.L., a Person Coming Under the Juvenile Court
Law.

C081704

SACRAMENTO COUNTY DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

(Super. Ct. No. JD234559)

Plaintiff and Respondent,

v.

L.L.,

Defendant and Appellant.

L.L. (mother) appeals from the juvenile court's order limiting her right to make educational decisions for her daughter, A.L. Finding no abuse of discretion, we will affirm the order.

BACKGROUND

On March 25, 2014, the Sacramento County Department of Health and Human Services (Department) received a child abuse referral from a confidential mandated

reporter indicating that A.L. was “feeling suicidal due to the way her family was treating her.” Prior to the child abuse referral, A.L. had been hospitalized due to a risk of suicide from March 10, 2014 to March 17, 2014. The reporter said A.L.’s father had been threatening A.L. and A.L.’s mother was not protective. The reporter added that A.L. had cuts on her arm and a plan to commit suicide by taking pills.

According to the reporter, A.L. said she wanted to harm herself because her family members think she is crazy, call her names and accuse her of being a burden. A.L. explained that she was living with her maternal grandparents in accordance with a safety plan previously implemented by the Department after it had investigated allegations of sexual abuse against father. A.L. said her father recently visited the maternal grandparents’ house and threatened to hit A.L. if she did not finish her homework. According to A.L., mother and the maternal grandmother were aware of father’s behavior but did not intervene. Instead, mother told father to hit A.L. later if she failed to complete her homework. A.L. was assessed by local law enforcement, placed on a Welfare and Institutions Code section 5150¹ (psychiatric) hold at Sacramento County Mental Health Treatment Center, and eventually transferred to Sierra Vista Hospital for a section 5250 (intensive treatment) hold due to her suicidal statements and gestures.

On April 1, 2014, A.L. told the social worker the sexual abuse allegations she made against her father were true, and she could not handle the stress caused by her parents demanding she perform well in school. A.L. said mother had recently come to visit her in the hospital but only talked about her schoolwork. A.L. reported feeling stressed and upset whenever she has contact with her family and feels like cutting herself to release pain when she becomes upset.

¹ Undesignated statutory references are to the Welfare and Institutions Code.

On April 2, 2014, mother told the social worker A.L. does not care about her because A.L. would not be cutting herself if she did. Mother said she did not believe A.L. was in danger of hurting herself and did not believe A.L.'s father had sexually abused her because " 'Asian fathers' " do not sexually abuse their children. Mother claimed A.L. and father "were only playing with each other." According to mother, A.L. was acting out because "she is not a good daughter."

On April 10, 2014, the Department filed a petition alleging A.L. was a child described in section 300, subdivision (b) because father had sexually abused A.L. and mother had knowledge of the abuse but failed to take steps to protect A.L. The petition described father's acts of sexual abuse against A.L. and her sister as follows: "[The] acts included but are not limited to the father . . . touching the children on the chest area, making the children grab his penis, reaching into the children's pants and touching the buttocks, pinning the children to the floor and kissing [their] lips, forcing the children to lift their shirt so he could view and touch their breasts, touching the children when asleep, getting on top of the children and trying to kiss them while maintaining an erection." The petition further alleged mother had violated the safety plan by allowing A.L. to return to the family home where A.L. continued to have contact with father.

In addition, the petition alleged A.L. was a child described in section 300, subdivision (c) based on the following: (1) A.L. had a psychiatric and/or emotional problem which resulted in her being placed on an involuntary section 5150 hold on two occasions due to making suicidal statements and engaging in self-harming behavior; (2) A.L. was diagnosed with major depressive disorder and posttraumatic stress disorder (PTSD); (3) A.L.'s mother did not understand the severity of A.L.'s mental health issues, as demonstrated by mother bringing her homework to the hospital and demanding the staff ensure that she complete it; (4) A.L. felt she was better off dead due to mother's pressuring her to be successful in school, mother's nonchalant attitude towards her

suicidal behavior, and mother calling her crazy and lazy; and (5) A.L. said she would kill herself if she returned to her parents' or maternal grandparents' home.

The petition also alleged A.L. was a child described in section 300, subdivision (d) because A.L. had been sexually abused by father on more than one occasion, and mother knew or should have known father was sexually abusing A.L. and failed to protect A.L. by not maintaining the family safety plan of having A.L. reside outside the home.

Following the detention hearing, the juvenile court ordered A.L. detained and temporarily placed A.L. outside the home in the care of the Department. A contested jurisdictional/dispositional hearing was subsequently scheduled.

The jurisdiction/disposition report recommended, among other things, that the petition be sustained, and that A.L. remain in out-of-home placement. The report said mother continued to deny that father had sexually abused A.L. and continued to allow A.L. to have contact with father despite the safety plan of having A.L. remain in the care of the maternal grandparents unless father moved out of the home. According to the report, neither parent (1) believed father's behavior posed any risk to A.L., (2) ensured A.L. received adequate outpatient health services, or (3) engaged in any services to ameliorate the risk to A.L. in the home. The report indicated both parents denied that A.L.'s mental health issues resulted from abuse or neglect in the home.

At the conclusion of the contested jurisdictional/dispositional hearing, the juvenile court found true the allegations in the petition as amended. The amended allegations found true as to "b-1" read as follows: "The child's mother . . . was aware of the acts of sexual touching the father . . . was performing with and upon the bodies of the children, [A.L.] . . . and [her sister], . . . but failed or refused to take steps necessary to protect the children. Such acts included but are not limited to the father . . . wrestling with his teenage daughters in a sexualized manner which caused the children to feel uncomfortable. The mother is aware of the acts of sexual touching but refused to take action to protect the children, or limit their contact with the father. The mother decided

to put a lock on the children's bedroom doors but the father was able to open the locks The mother engaged in safety planning with the Department and local law enforcement and violated the safety plan by having the children return to the family home a few months later where the children continued to have contact with the [father]." The amended allegations found true as to "d-1" read as follows: "The children, [A.L.] . . . and [her sister], have, on more than one occasion, been touched sexually by the father . . . as described in CA Penal Code Section 11165.1(b)(4). Such acts include, but are not limited to, the father wrestling with his teenage daughters in a sexualized manner which caused the children to feel uncomfortable. The children's mother kn[e]w or should have known that the father was touching the children sexually and she failed to protect them in that she failed to maintain the safety plan of having the children reside outside of the home."

The juvenile court declared A.L. a dependent and removed A.L. from the custody of her parents. But the juvenile court determined A.L.'s parents were able to meet her educational needs and ordered that they continue to hold educational rights. The court also scheduled a prepermanency hearing.

The prepermanency review report recommended that A.L. remain in out- of-home placement and that the parents receive an additional six months of reunification services. The report stated that despite participation in individual therapy, mother continued to minimize the sexual abuse committed by father and was unable to understand the connection between father's sexual abuse and A.L.'s mental health problems. The report added mother did not have a safety plan for A.L. if she returned home and it did not appear that either parent had "the understanding, insight, awareness or . . . integrated information which would allow [A.L.] to be safely returned to the mother's care" while father resided in the home. The report concluded the prognosis for A.L. returning home was poor because "mother does not see the father []as being a safety issue to [A.L.], the father has no insight as to how his actions and behaviors have contributed to [A.L.'s]

current struggles, the mother has not asked the father to leave the home nor has the father left the home on his own, [A.L.] refuses to visit with either parent and continues to have reoccurring nightmares and flashbacks regarding the abuse that she has suffered.” The report explained that in order for A.L. to return home there must be a “significant shift in . . . mother’s thinking regarding the abuse [M]other will need to come to the understanding as to the severity of the abuse, her knowledge as to what was occurring in the home as well as being able to [choose] the safety [of] her daughter over the father being able to remain living in the home.”

Following the prepermanency hearing, the juvenile court continued out-of-home placement for A.L. and scheduled a permanency hearing. The juvenile court found mother was able to meet A.L.’s developmental and educational needs and ordered that the parents continue to hold educational rights. The court also found A.L. could be returned to her parents’ home within the next six months but only if mother developed insight and empathy for A.L. and father left the home.

The permanency review report recommended termination of reunification services and implementation of a long-term plan of foster care. In support of these recommendations, the report said A.L.’s parents continued to minimize and deny the abuse that occurred in the home. It said they failed to demonstrate awareness of the issues that led to dependency, failed to take responsibility for their actions, and failed to show empathy for A.L. The report indicated mother was adamant she would not ask father to leave the home because he had done nothing wrong, and A.L. was adamant she did not want to visit her parents. A.L. said mother “will never change and she will never believe me.” A.L. also said her parents did not understand her mental health challenges or provide support regarding the challenges. According to A.L., when she was initially hospitalized, mother told her she was “possessed by the ghosts of . . . mother’s . . . two previously failed pregnancies and that the ghosts were jealous of [A.L.] and that [this] is what was causing [A.L.] to hurt herself.”

At the permanency hearing, the juvenile court found reasonable reunification services had not been provided. The matter was continued and reunification services were extended.

The supplemental permanency review report recommended that reunification services be terminated and that a plan of long-term foster care be implemented. The report also recommended that A.L. be transferred to a group home capable of providing a higher level of care due to her self-harming and suicidal behaviors. The report noted, however, that A.L. would need an Individualized Education Plan (IEP) in order for this to occur. The report also recommended removal of mother's educational decision-making rights because of "mother's lack of understanding, insight and empathy as to [A.L.'s] mental health and continued education." In making these recommendations, the report stated: "[M]other remains of the opinion that . . . physical abuse and/or sexual abuse has never occurred in her home. The mother also believes that any mental health issues . . . experienced by [A.L. are] the result of [A.L.'s] concerns regarding her academics primarily. She has explained . . . her understanding of the causes of [A.L.'s] mental health issues as being related to 'ghosts' apparently assuming control over [A.L.]." The report said the "biggest concern" was A.L. did not want to visit her parents or return to their care because of the abuse she had suffered. The report added it was a concern that A.L.'s significant mental health issues were triggered by interactions with her family.

At the continued permanency hearing, the Department asked the juvenile court to limit mother's right to make educational decisions for A.L. The Department indicated it was concerned about its ability to implement effective educational decisions for A.L. if the parents' educational rights were not limited. The Department said A.L. might refuse to participate in IEP meetings if the parents were present. The juvenile court granted the Department's request, reasoning that "participating in an IEP meeting with [her parents] could be detrimental to [A.L.'s] mental health." The juvenile court also noted that the child's "mental health issues appear to be triggered by communication with . . . family

members.” At the conclusion of the hearing, the juvenile court terminated reunification services and adopted a permanent plan of long-term foster care.²

DISCUSSION

I

Mother contends the juvenile court abused its discretion in limiting her right to make educational decisions for A.L. According to mother, the abuse of discretion stems from the court’s failure to consider less restrictive alternatives to the limitation of her educational rights. The Department counters that mother has forfeited her claim by failing to object in the juvenile court. The Department adds that the trial court’s order does not constitute an abuse of discretion because it does not fall outside the bounds of reason.

“[A] reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court.” (*In re S.B.* (2004) 32 Cal.4th 1287, 1293.) The so-called “forfeiture” doctrine applies in juvenile dependency proceedings. (*Ibid.*; see also *In re Dakota S.* (2000) 85 Cal.App.4th 494,

² We deny the Department’s request for judicial notice of court records relating to proceedings that occurred in the juvenile court after the juvenile court issued its order limiting mother’s educational rights. Rule 8.252(a) of the California Rules of Court requires a party seeking judicial notice to explain *why* the matter to be noticed is relevant to the appeal. (Cal. Rules of Court, rule 8.252(a)(2)(A).) The Department’s request did not satisfy this requirement, simply stating that the documents to be noticed “are relevant to the pending appeal.” Accordingly, because the Department has failed to demonstrate that the documents are relevant to the dispositive issue on appeal, we decline to take judicial notice of them. (*Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 544, fn. 4; *Arce v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 482.) Contrary to the Department’s contention, we are not required to take judicial notice of the documents. While a reviewing court may take judicial notice of court records (Evid. Code, § 452, subd. (d)), it is not required to do so where, as here, the trial court did not take notice of the records and the records are not matters which the trial court was required to notice under Evidence Code section 451 or 453. (Evid. Code, § 459, subd. (a).)

502.) “In both adult and juvenile cases, the time to object is at the pertinent hearing, not for the first time on appeal.” (*In re Abdirahman S.* (1997) 58 Cal.App.4th 963, 971, citing *People v. Welch* (1993) 5 Cal.4th 228, 237.) A different rule would permit a party to “ ‘deliberately stand by in silence and thereby [allow] the proceedings to reach a conclusion in which the party could acquiesce if favorable and avoid if unfavorable.’ ” (*In re Dakota S.*, at p. 502.)

Although “application of the forfeiture rule is not automatic,” “the appellate court’s discretion to excuse forfeiture should be exercised rarely and only in cases presenting an important legal issue.” (*In re S.B.*, *supra*, 32 Cal.4th at p. 1293.) In dependency cases, “the discretion must be exercised with special care” because dependency proceedings are special proceedings that “involve the well-being of children, considerations such as permanency and stability are of paramount importance. [Citation.]” (*Ibid.*)

Here, the supplemental permanency report recommended limiting mother’s right to make educational decisions for A.L. due to “mother’s lack of understanding, insight and empathy as to [A.L.’s] mental health and continued education.” The report requested that “the Educational Rights Holder be changed from the mother in moving forward with school placement and an [IEP] which needs to be completed in order to support the ongoing specification of Severe Emotional Disturbance . . . in meeting the academic goals of [A.L.] in the future.” At the permanency hearing, mother requested she be allowed to retain her educational decision-making rights because there was no evidence she “was deviant in being the steward of [A.L.’s] education.” Mother further stated she “really values education” and wants to have “some educational decision-making ability.” But mother did not object on the ground she now raises on appeal. By failing to do so, mother forfeited her claim on appeal. (*People v. Seijas* (2005) 36 Cal.4th 291, 301 [“We have long held that a party who does not object to a ruling generally forfeits the right to complain of that ruling on appeal.”]; *In re Richard K.* (1994) 25 Cal.App.4th 580, 590

[“As a general rule, a party is precluded from urging on appeal any point not raised in the trial court.”]; *People v. Rodriguez* (1969) 274 Cal.App.2d 770, 775 [“specific objections” are “waived” on appeal where trial counsel “merely interposed a general objection”].) Mother has not persuaded us that the forfeiture rule is inapplicable or should be excused.

In any event, her contention lacks merit.

Parents have a constitutionally protected right to control their children’s education. (*Troxel v. Granville* (2000) 530 U.S. 57, 65 [147 L.Ed.2d 49, 56]; *In re R.W.* (2009) 172 Cal.App.4th 1268, 1276.) However, when a child has been declared a dependent under section 300, the court may limit that control. (§ 361, subd. (a)(1); see Cal. Rules of Court, rule 5.650(a).) A parent’s right to make educational decisions may be limited only to the extent necessary to protect the child. (§ 361, subd. (a)(1).)

We review orders limiting parents’ educational rights under an abuse of discretion standard, bearing in mind that “ ‘[t]he focus of dependency proceedings is on the child, not the parent’ [citation].” (*In re R.W.*, *supra*, 172 Cal.App.4th at p. 1277.) Although the abuse of discretion standard is deferential, “it is not empty.” (*People v. Williams* (1998) 17 Cal.4th 148, 162.) The standard “asks in substance whether the ruling in question ‘falls outside the bounds of reason’ under the applicable law and the relevant facts. [Citations.]” (*Ibid.*)

Here, the record discloses that mother’s ability to make educational decisions for A.L. was compromised by her failure to acknowledge and rectify the issues that resulted in A.L. being declared a dependent. Mother demonstrated a limited understanding of and empathy for A.L.’s mental health issues. Mother failed to recognize that A.L.’s mental health issues were connected to the abuse and neglect in the home and were exacerbated by her demand that A.L. perform well in school. Mother repeatedly denied that father had physically or sexually abused A.L. and refused to ask father to leave the home. A.L. consistently refused to visit her parents and was adamant that she did not want to return home because of the abuse she had suffered. A.L. stated she could not handle the stress

caused by her parents regarding her schoolwork, and felt stressed and upset whenever she had contact with her family. Under these circumstances, the juvenile court's ruling does not exceed the bounds of reason. It was not unreasonable for the juvenile court to conclude that mother was unable to make educational decisions in A.L.'s best interests, and therefore an order limiting her educational rights was necessary to protect A.L.

DISPOSITION

The juvenile court's order is affirmed.

/S/
MAURO, J.

We concur:

/S/
HULL, Acting P. J.

/S/
HOCH, J.